

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

In the Matter of:

PREMIER JETS, INC.

FAA Order No. 99-7

Served: August 31, 1999

Docket No. CP97NM0005

DECISION AND ORDER¹

This appeal involves flight time recordkeeping by Part 135 air carriers. It raises the issue of which records Federal Aviation Administration (FAA) inspectors may use to determine compliance with the flight time limitations. This case does not involve any allegation that Premier violated the flight time limits themselves; only recordkeeping is at issue.

Premier Jets, Inc. (Premier) has appealed the law judge's decision finding that Premier committed three of four alleged recordkeeping violations.² This decision denies Premier's appeal and affirms the law judge's decision assessing a civil penalty of \$1,125.

Premier is a Part 135 operator located in Oregon that employs about 30 pilots. Premier transports transplant teams and donor organs for several hospitals.

The FAA conducted an in-depth inspection of Premier's operation from March 25

¹ The Administrator's civil penalty decisions are available on LEXIS, WestLaw, and other computer databases. They are also available on CD-ROM through Aeroflight Publications. Finally, they can be found in Hawkins's Civil Penalty Cases Digest Service and Clark Boardman Callaghan's Federal Aviation Decisions. For additional information, see 64 Fed. Reg. 43,236, 43,250 (August 9, 1999).

² A copy of the law judge's written initial decision is attached.

through March 29, 1996. At the start of the inspection, Premier provided FAA inspectors with its individual records of pilot flight time, which consisted solely of "crew duty time sheets."³ After noticing that one pilot's record indicated that he had not logged flight time since March 3, 1996, the FAA inspectors requested Premier's flight logs to check the accuracy of the crew duty time sheets.

The inspectors discovered discrepancies between the crew duty time sheets and the flight logs. Some errors were in the crew duty time sheets and some were in the flight logs.

Complainant FAA initiated the instant civil penalty action, alleging that Premier committed several violations of the following regulation:

§ 135.63 Recordkeeping requirements.

(a) Each certificate holder shall keep at its principal business office or at other places approved by the Administrator, and shall make available for inspection by the Administrator, the following –

...

(4) An individual record of each pilot used in operations under this part, including the following information:

...

(vii) The pilot's flight time in sufficient detail to determine compliance with the flight time limitations of this part.

14 C.F.R. § 135.63(a)(4)(vii) (1996).

After a hearing, the law judge found that the record supported a finding of violation on three of the four counts in the complaint. The law judge noted as follows:

- **Count 1.** Premier's chief pilot conceded that one of Premier's pilots

² A copy of the law judge's written initial decision is attached.

³ A crew duty time sheet is a weekly compilation of a pilot's on-duty, flight, crew-rest, and off-duty time.

recorded 2.4 hours flying time on his crew duty time sheet for the wrong day – for March 1 instead of March 2, 1996. *Regarding Count 1, the law judge found a violation of Section 135.63(a)(4)(vii).*

- **Count 2.** The complaint alleged that Premier failed to maintain an individual record of a pilot in sufficient detail regarding a January 14, 1996, flight. At the hearing, however, the FAA inspector acknowledged that the pilot incorrectly wrote down the wrong date on the flight log (January 14, 1996, instead of March 14, 1996) and that the crew duty time sheet was correct. *The law judge concluded that the flight with questionable recordkeeping occurred on March 14, 1996, and that Complainant improperly drew up Count 2 of the complaint by alleging a January 14, 1996, flight. As a result, the law judge dismissed Count 2.*
- **Count 3.** Premier's chief pilot conceded that its pilots entered the wrong date on the flight log (March 19 instead of March 18, 1996). The crew duty sheets were correct. *Regarding Count 3, the law judge found a violation of Section 135.63(a)(4)(vii).*
- **Count 4.** The flight time on the crew duty time sheets for two pilots for March 8, 1996, appeared to be incorrect. *Regarding Count 4, the law judge found a violation of Section 135.63(a)(4)(vii).*

The law judge said that Premier must direct attention to its pilots' recordkeeping practices to eliminate errors. He pointed out that accurate records must be kept if the operator is to know when to schedule pilots within the permissible limits and if the FAA is to know whether the operator has done so. The law judge concluded that Premier's recordkeeping violated Section 135.63(a)(4)(vii) because it did not consist of both the flight logs and the crew duty time sheets. According to the law judge, Premier's recordkeeping was inadequate both for containing inaccuracies and for necessitating cross-checking. The law judge assessed a \$375 penalty for each of the three violations he found, for a total of \$1,125. Premier has appealed the law judge's initial decision.

In its appeal brief, Premier presents two mutually exclusive arguments. First,

Premier argues that the FAA inspectors should *not* have examined the flight logs because they were not part of the "individual record" of each pilot. Without the flight logs, FAA inspectors would not have been able to determine conclusively that the crew duty time sheets contained errors.

Second, Premier argues that it committed no violation because the flight logs *were* part of the "individual record" of each pilot's flight time. Premier notes that the inspectors *were* able to determine the pilots' true flight time by comparing the crew duty time sheets with the flight logs. Thus, Premier contends, its recordkeeping met the requirements of the rule.

Contrary to Premier's contentions, the inspectors acted appropriately when they examined the flight logs. Indeed, if the inspectors had chosen to ignore or overlook any compliance concerns raised by their examination of the crew duty time sheets, they would have been abrogating their critical safety duties. The inspectors acted appropriately in conducting a searching and thorough review of Premier's records, including the flight logs.

Nor does the record support Premier's other argument – *i.e.*, that no violation occurred because the flight logs *were* part of the "individual record" of each pilot. The law judge found that Premier *should* have kept the flight logs as part of the "individual record" of each pilot, because Premier was using the flight logs rather than the crew duty time sheets to schedule its pilots.⁴ As the law judge noted, the flight time recordkeeping

⁴ Although the law judge's decision may suggest that if Premier had kept the crew duty time sheets and the flight logs together as the individual pilot records, Premier would not have committed any violations, it is unclear that this is true. First, there were still errors in both types of records. Second, a record-keeping practice that requires inspectors routinely to review two

provision has a dual purpose – first, to ensure that in scheduling, an air carrier complies with the flight time limits, and second, to ensure that the FAA can readily monitor the air carrier's compliance with the flight time limits.

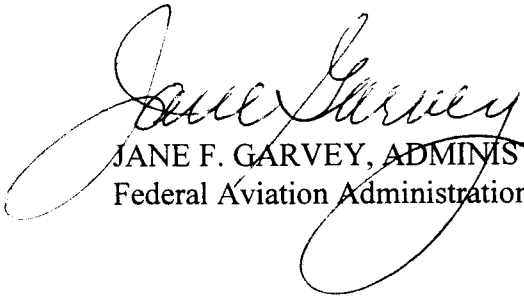
Premier, however, did *not* keep the flight logs as part of the individual record of each pilot. Instead, the flight logs for all of Premier's pilots for a single month were kept in the same file. Where there was more than one pilot for a flight, multiple pilots appeared on a single flight log. Moreover, when Premier gave the inspectors its individual records, it gave them only the crew duty time sheets and not the flight logs.

Section 135.63 requires air carriers to keep individual records of pilots used in air carrier operations in part so that FAA inspectors may determine, without an undue expenditure of time and resources, whether an air carrier is complying with the safety regulations. *See* 43 Fed. Reg. at 46,764, stating that “[a] primary objective of the rule is to produce the minimum records needed for the FAA to objectively judge compliance ... and thus insure safety. ... [The rule] is necessary for operators to maintain a safe operation and for the FAA to monitor the operator.” When an air carrier has failed to keep records that are accurate and that are by individual pilot, then an air carrier's recordkeeping is inadequate. *See In the Matter of South Aero*, FAA Order No. 96-4 at 11 (February 13, 1996) (affirming the law judge's finding that South Aero's recordkeeping was inadequate, and noting that South Aero had conceded that it was only through

types of documents as the individual pilot flight time record may be too time-consuming, undermining one purpose of the rule, which is to facilitate and speed safety oversight by consolidating the relevant information in one record for each pilot. It is unnecessary to reach the issue of the appropriateness of keeping the crew duty time sheets and flight logs together as the individual pilot record because the record indicates that Premier did not do so.

significant time and resources that FAA inspectors were able to piece together the pilots' flight and duty time).

In conclusion, the law judge did not err in finding Premier's recordkeeping inadequate. This decision denies Premier's appeal and affirms the law judge's decision assessing a civil penalty of \$1,125.⁵



JANE F. GARVEY, ADMINISTRATOR
Federal Aviation Administration

Issued this 23rd day of August , 1999.

⁵ Unless Respondent files a petition for review with a Court of Appeals of the United States within 60 days of service of this decision (under 49 U.S.C. § 46110), this decision shall be considered an order assessing civil penalty. See 14 C.F.R. §§ 13.16(b)(4) and 13.233(j)(2) (1998).